

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JACK W. SCOTT,)	CASE NO. 3: 08 CV 1837
)	
Petitioner,)	
)	JUDGE DONALD C. NUGENT
v.)	
)	
ED SHELDON, Warden,)	MEMORANDUM OPINION
)	AND ORDER
Respondent.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Greg White. The Report and Recommendation (ECF # 18) is ADOPTED by this Court, and Petitioner's Motion to Amend the Petition (ECF # 16), and the original Motion to Vacate, Set Aside, or Correct the Sentence pursuant to 28 U.S.C. § 2254 (ECF # 1) are DENIED.

The Report and Recommendation provides the following procedural history concerning Petitioner's conviction:

On September 19, 2005, a Hardin County Grand Jury returned a seventeen count indictment against Scott, sixteen of which included child endangerment in violation of Ohio Rev. Code ("O.R.C.") § 2919.22. Count Seventeen charged him with Intimidation of an Attorney, Victim, or Witness in a Criminal case, in violation of O.R.C. § 2921.04(B). Scott, through counsel, entered a plea of not guilty on each count. The trial proceeded on Counts One through Ten, Counts Eleven through Seventeen having been severed. At the close of the State's case, the court granted Scott's motion for acquittal on Count Eight. The jury returned a verdict of guilty on all remaining counts. Prior to sentencing, the State's motion for dismissal of Counts Eleven through Seventeen was granted.

(ECF # 18 at 3 (internal citations omitted).) On May 3, 2007, Petitioner was sentenced to serve an aggregate prison term of twenty-one years, six months.¹ Petitioner filed a Motion to Vacate,

¹ As cited in the Report and Recommendation, the trial court ruled that Counts One, Three, Five and Nine were allied offenses of similar import, and, therefore, merged Count One with Count Two,

Set Aside, or Correct the Sentence pursuant to 28 U.S.C. § 2254 on July 30, 2008, claiming actual innocence and ineffective assistance of counsel. (ECF # 1.) Petitioner filed a Motion to Amend the Petition on April 27, 2009. (ECF # 16.)

Pursuant to Local Rule 72.2, this matter was referred to Magistrate Judge White for the preparation of a report and recommendation. On August 19, 2009, Magistrate Judge White recommended that this Court deny the Petition and the Motion to Amend. (ECF # 18.) Petitioner has not filed any objections to the Report and Recommendation.

The Court has reviewed the Report and Recommendation *de novo*. *See Thomas v. Arn*, 474 U.S. 140 (1985). The Court finds Magistrate Judge White's Report and Recommendation to be well-written, well-supported, and correct. Therefore, the comprehensive, thorough and scholarly analysis of the Magistrate Judge as set forth in the Report and Recommendation is ADOPTED in its entirety. (ECF # 18.) Petitioner's Motion to Vacate, Set Aside, or Correct the Sentence is DENIED. (ECF # 1.) Petitioner's Motion to Amend the Petition is likewise DENIED. (ECF # 16.)

Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Count Three with Count Four, Count Five with Count Six, and Count Nine with Count Ten. (ECF # 18 at 3, n.1.)

s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: September 11, 2009